

**UNITED STATES DISTRICT COURT OF THE  
SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON DIVISION**

**IN RE: DIGITEK PRODUCT LIABILITY  
LITIGATION**

**MDL NO. 1968**

*Case No.: 2:08-md-1968*

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Kathy McCornack, et al.  
Plaintiffs,

*Case No.: 2:09-cv-0671*

vs.

Actavis Totowa, LLC, et al.  
Defendants.

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**RELATED CASES**

**NOTICE OF PLAINTIFFS' MOTION TO STRIKE PLEADINGS AND MOTIONS  
FILED IN EXCESS OF PAGE LIMITATION (LOCAL RULE 7.1(a)(2))**

**TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:**

**NOTICE IS HEREBY PROVIDED** that on September 14, 2011, or at such other time and date as may be set by the Court, in the United States District Court for the Southern District of West Virginia, Charleston Division, Plaintiffs, Kathy McCornack, Daniel McCornack, and Ralph McCornack, (“*McCornack Plaintiffs*”), will move the Court for an order striking all of the following pleadings filed by defendants in excess of the page limitations specified by Local Rule Civ. P. 7.1(a)(2):

1. DEFENDANT'S GENERAL BACKGROUND STATEMENT OF KEY FACTUAL INFORMATION REGARDING DIGITEK, filed August 1, 2011 in MDL No. 1968, (Doc. No. 522)
2. MEMORANDUM IN SUPPORT OF DEFENDANT'S MOTION FOR SUMMARY JUDGMENT, filed August 3, 2011 in MDL No. 1968, (Doc. No. 524)
3. MEMORANDUM IN SUPPORT OF DEFENDANT'S MOTION TO EXCLUDE PLAINTIFFS' GENERAL LIABILITY EXPERTS, filed August 3, 2011 in MDL No. 1968, (Doc. No. 526)
4. DEFENDANT'S MOTION IN LIMINE TO EXCLUDE UNRELIABLE HEARSAY, filed August 3, 2011 in MDL No. 1968, (Doc. No. 527)
5. MEMORANDUM IN SUPPORT OF DEFENDANTS' MOTION TO EXCLUDE DECEDENT'S POSTMORTEM BLOOD DIGOXIN CONCENTRATION, MOTION TO EXCLUDE THE EXPERT TESTIMONY OF RICHARD MASON, M.D., AND KEITH GIBSON, AND MOTION FOR SUMMARY JUDGMENT, filed August 3, 2011 in Case No. 2:09-CV-0671, (Doc. No. 121)
6. MYLAN DEFENDANTS' MEMORANDUM IN SUPPORT OF COMPANION MOTION FOR SUMMARY JUDGMENT AND TO EXCLUDE EXPERT TESTIMONY, filed August 3, 2011 in MDL NO. 1968, (Doc. No. 529, Doc. No. 528.1).

This motion is made pursuant to *Federal Rules of Civil Procedure*, Rule, 12(f) and Local Rule Civ. P. 7.1(a)(2), on grounds that there is good cause to strike said pleadings for violation of the Court's motion requirements. Plaintiffs have been diligent in the defense of these motions, but are prejudiced by responding to defendants' over-length memoranda within the page limitations of the Local Rules. This motion will be based upon this notice of motion, the points and authorities and supporting declaration filed herewith, the Court's file in the action, and such evidence and argument as may be presented at hearing.

Dated: August 24, 2011

/s/ Don E. Ernst  
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